

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Alexandria Division

In re:

BENYAM MITIKU,

Debtor.

Case No. 07-10150-RGM
(Chapter 13)

MEMORANDUM OPINION

THIS CASE is before the court on the Objection to Confirmation of Chapter 13 Plan filed by Island Creek Community Association, Inc. (“Island Creek”). Island Creek raises two objections to debtor’s proposed plan.

Debtor includes Island Creek’s claim in Paragraph 3.B of the plan, which states that “[c]laims listed in this subsection consist of any claims secured by *personal property* not described in Plan paragraph 3.A” (emphasis added). Moreover, Paragraph 3 of the Plan states that claims in this section are secured claims that are not secured solely by debtor’s principal residence. In its objection, Island Creek states that it is a secured creditor by virtue of its interest in debtor’s principal residence and, thus, is misclassified in the plan.

Island Creek filed a proof of claim asserting a claim of \$6,831.37 secured by real estate. Included with the proof of claim are documents supporting its secured status. No objections to Island Creek’s proof of claim have been filed, and the claim is deemed to be allowed under Bankruptcy Code § 502(a). As such, Island Creek holds an allowed claim that is secured by real estate and not personal property. Debtor’s classification of Island Creek in Paragraph 3.B of the plan, which is reserved for certain claims secured by personal property and explicitly excludes claims secured solely by the debtor’s principal residence, is improper.

In addition, Island Creek objects to confirmation of the plan because the Schedule J attached to the plan does make provision for postpetition assessments of homeowners' association dues for 2007 and beyond. Debtor's Chapter 13 plan does not appear to provide for postpetition homeowners' association fees that will become due and payable during the term of the plan. Accordingly, the plan is not feasible as proposed.

The objections will be sustained.

Alexandria, Virginia
September 20, 2007

/s/ Robert G. Mayer
Robert G. Mayer
United States Bankruptcy Judge

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